OFFICE OF PROFESSIONAL RESPONSIBILITY (OPR) AND THE OFFICE OF THE INSPECTOR GENERAL (OIG)

SHARON POMERANZ, ELR CHIEF
Office of Professional Responsibility (OPR) and
The Office of the Inspector General (OIG)

Sharon Pomeranz, ELR Chief

Objectives:

After this session, you should be able to:

1. Identify OPR's jurisdiction.
2. Describe the sources of OPR complaints.
3. Summarize OPR's investigative process.
4. Distinguish between OPR and OIG
Office of Professional Responsibility (OPR) and the Office of the Inspector General (OIG)

Sharon J. Pomeranz, Chief Counsel, Employee/Labor Relations Unit
INTRODUCTION

After this session, you will be able to:

1. Identify OPR’s jurisdiction;
2. Describe the sources of OPR complaints;
3. Understand OPR’s investigative process; and
4. Distinguish between OPR and OIG.
OPR has jurisdiction to investigate allegations of misconduct by Department of Justice (DOJ) attorneys that relate to the exercise of their authority to investigate, litigate or provide legal advice. This includes the adjudication function performed by Immigration Judges (IJs).
Professional Misconduct Based on Intentional Violation of Law Rule or Standard of Conduct

OPR will find an intentional violation when:

(1) the U purposefully engaged in conduct that was unambiguously prohibited by an obligation, standard, or rule; or

(2) the U engaged in conduct knowing that its probable consequence is a result that is unambiguously prohibited by an obligation, standard, or rule.
OPR will find reckless disregard when:

(1) the IJ knew or should have known of the obligation, standard, or rule;

(2) the IJ should have known, based on her experience and the unambiguous application of the obligation, standard, or rule, that there was a substantial likelihood of a violation; and

(3) the IJ nonetheless engaged in the conduct which enable under all of the circumstances.
Poor Judgment or Mistake

OPR will find poor judgment when, in the absence of professional misconduct, there are five courses of action, and the IJ did not exercise a course of action the DOJ may reasonably find an IJ exercising good judgment.

A mistake is the result of excusable human error despite the exercise of reasonable care.

An OPR finding that an IJ used poor judgment or made a mistake does not constitute a finding of professional misconduct.
Sources of Complaints to OPR

(1) self-reporting;
(2) other DOJ employees (including the Office of General Counsel on behalf of EOIR management);
(3) practitioners in our courts (the private bar, accredited representatives, and staff of the Department of Homeland Security (DHS));
(4) the public (including spectators in the court);
(5) the media;
(6) Congress.
OPR also conducts periodic searches of legal databases to identify opinions containing judicial findings of misconduct or statements suggesting misconduct by DOJ attorneys.

These opinions are an additional source for OPR investigations.
receives no notice of the complaint.
The II alleged to have engaged in misconduct.

fact is recorded in OPR's files.

If OPR closes a matter without investigation, this

OPR's jurisdiction.

unsupported by any evidence, or if it is not within
complaint is frivolous on its face, it is vague and
additional information because, for example, the
matter can be closed without the need for
OPR conducts an inquiry to determine whether

OPR Complainant Process - Inquiry
OPR will ask the II for each jurisdiction in which he or she has bar membership in order to determine which rules of professional conduct apply.

OPR will request a written response from the Office of General Counsel and transmit the allegation and to solicit a written response from the involved in the matter. OPR notifies EOR if OPR determines that further information is needed to resolve the matter.
OPR will permit the IJ to have counsel present at the presence of a court reporter.

The IJ's interview may be recorded or conducted in the presence of a full investigation if the complainant

Continued
Judge or to the complainant.

Director of the EOIR but not to the Immigration
Deputy Attorney General as well as to the
complainant, and other appropriate parties are
judgment occurred, the IJ who was investigated, the
Finding of NO Misconduct or Poor Judgment
Finding of Poor Judgment can lead to training.

If OPR finds professional misconduct, it provides a report of findings and conclusions to the Deputy Attorney General as well as the Director of the EOR.

Judgment of Professional Misconduct or Poor
After the conclusion of all proceedings related to
Disciplinary Authority

For bar discipline is apparent, purely federal or Department concerns and no basis
pursuant to disciplinary authorizes in the jurisdiction where the
disciplinary by the DOJ, the OPR provides notice of

Referral of Findings of Professional

Misdemeanor Misconduct to Bar Disciplinary Authorities
Financial dealings of position, accepting certain gifts, and inappropriate behavior of the Executive Branch, such as misuse of funds. Employees of the Executive Branch, such as misuse of funds. Employees of the Standards of Ethical Conduct of the United States can include serious administrative misconduct by DOT employees.

Serious misconduct or serious administrative criminal wrongdoing or serious administrative criminal wrongdoing can include serious allegations of fraud, waste, and abuse in DOT programs, non-fraudulous allegations of fraud, waste, and abuse. The OIG audits DOT programs and investigates the OIG.

Office of the Inspector General (OIG)
The OIG refers to the OPR all allegations of misconduct within OPR's jurisdiction.

or civil liberties by the DOI.

or investigate alleged violations of civil rights.

Section 1001 of the USA PATRIOT Act directs

Jurisdiction Continued

Office of the Inspector General (OIG)
If criminal activity is suspected, the OIG works with
the Public Integrity Section of the Criminal Division.

Including a sworn statement from the IL
OIG’s investigation may include witness interviews,
superseding documents from persons outside the federal
15 geographic locations throughout the U.S. They can
OIG’s Investigations Division has Special Agents in
and other material within the DOJ.
OIG has access to all records, reports, documents,
OIG Procedures
OIG Referral or Recommendation to the EOIR

After review, the OIG may refer an allegation of non-criminal minor misconduct by an IJ to the EOIR for investigation and action.

After investigation, the OIG issues a Report of Investigation (ROI) to the EOIR which includes evidence pertaining to the charges and a synopsis of the evidence.

If disciplinary action is proposed based on the ROI, the EOIR will provide the IJ with copies of any evidence from the OIG ROI that was relied upon in the proposal.
IUs Are Vulnerable to Frivolous Complaints But Serious Misconduct Will Result in Discipline

The nature of the Immigration Judge position makes you vulnerable to complaints by the parties who appear before you. Routine and frivolous complaints which do not involve allegations of professional misconduct or criminal behavior will be resolved within OCU.

...
Best wishes and good luck in your new career on the bench!

(3) Is this how I want my friends and family to find me portrayed in the news media?
(2) Is this how the Attorney General would want me to act on his behalf?
(1) Is this how I want the public to see me?

Heated and you are involved, take a break. Ask yourself: our act or speak. If matters in the courtroom are tense or

So, what should I do? CONCLUSION